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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1033-SS00401

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on

Signature

Typed or printed name Emma L. Meyer

Application Number

10/619,944

Filed

July 15, 2003

First Named Inventor

Christopher R. Wilson

Art Unit

3623

Examiner

STERRETT, Jonathan

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s):

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 38,342

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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

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6-27-2006

Date

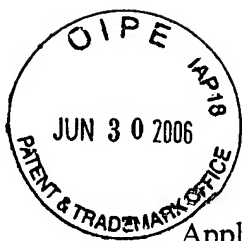
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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*Total of forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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CUSTOMER NO.
60533

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Christopher R. Wilson, et al.

Title: DISPATCH AND SERVICE SUPPORT SYSTEM

App. No.: 10/619,944

Filed: July 15, 2003

Examiner: STERRETT, Jonathan

Group Art Unit: 3623

Atty. Dkt No.: 1033-SS00401

Confirmation No.: 6802

MAIL STOP AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**REMARKS IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed on April 5, 2006 (hereinafter, "the Final Office Action"), Applicants file herewith a Notice of Appeal and a Pre-Appeal Brief Request for Review. Applicants request review of the following issues.

Claims 1-12, 14, 16-26, 28-36, 38 and 39 stand rejected under 35 U.S.C. §103(a) over Weigel, et al., "Applying GIS and OR Techniques to Solve Sears Technician-Dispatching and Home Delivery Problems" ("Weigel") in view of Bogart, et al., U.S. Pat. No. 6,163,607 ("Bogart"). *Final Office Action*, page 7, 1st paragraph. Applicants respectfully traverse each rejection.

Applicants submit that both the Non-Final Office Action (mailed November 2, 2005) and the Final Office Action failed to establish a *prima facie* case of obviousness. *Prima facie* obviousness requires:

- 1) there must be a suggestion or motivation to make the asserted combination, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art;
- 2) there must be a reasonable expectation of success; and
- 3) the alleged combination teach or suggest all the claim limitations.

M.P.E.P. §2142.

The asserted combination of Weigel and Bogart fails to disclose or suggest the particular arrangement of elements recited in the claims. There is also no suggestion or motivation to modify the references to make the asserted combination. Moreover, the asserted combination is improper because there is no reasonable expectation of success in combining the references because the references are technically incompatible.

Weigel is directed to an optimal method of scheduling routes for a number of technicians. *See Weigel*, p.117, column 1, lines 10-13. Each route includes an entire shift's workload. *Weigel*, p.117, column 1, lines 20-25; and p.126, column 1, lines 5-8.

Bogart is directed to a method of optimizing call center performance by routing a call waiting in a call queue to an agent. *Bogart*, Abstract. The method of Bogart is performed on a call by call basis. *Bogart*, Abstract.

Weigel and Bogart are technically incompatible because the method of Weigel is necessarily a batch processed method and the method of Bogart is necessarily a call-by-call method. That is, Weigel teaches that to achieve the optimum method desired, the method must simultaneously process all of the service orders for an area as a batch so that comparisons between different routing possibilities may be made. *See Weigel*, p.115, column 2, line 19 through p. 116, column 2, line 7. In direct contrast, Bogart teaches that each call is individually processed, i.e., individually routed to a call queue. *Bogart*, column 4, lines 25-29. The batch processing disclosed in Weigel is technically incompatible with the call-by-call processing disclosed in Bogart.

Furthermore, Weigel and Bogart are technically incompatible because Weigel is directed to a method of determining an optimum scheduling method whereas Bogart is directed to a method of selecting a single best agent to handle a call. That is, Weigel discloses a method of selecting and ordering a plurality of service stops for a plurality of technicians. *Weigel*, page 116, column 1, lines 15-40. In direct contrast, Bogart discloses a method of selecting the one agent to handle one phone call. *Bogart*, Figure 3. The method of Weigel cannot be modified to be a method of selecting one technician for one service call without fundamentally changing its principle of operation. Likewise, the method of Bogart cannot be modified to be a method of simultaneously selecting a plurality of agents to handle a plurality of calls without fundamentally changing its principle of operation. Therefore, the route optimization method of Weigel is

technically incompatible with the method of selecting a single best agent to handle one call of Bogart.

Moreover, Weigel makes it clear that merely accounting for the variables already considered by Weigel is computationally demanding and difficult to achieve within the targeted time of less than 1 hour. *Weigel*, p. 118, column 1, lines 2-13. Bogart on the other hand requires a near real-time calculation in order to route a call waiting in a call queue to an available agent. *See Bogart*, column 1, lines 46-49. The method of Weigel cannot be adapted to include near real time routing selection without rendering it unsatisfactory for its intended purpose of optimizing routes for technicians for an entire shift's work. Likewise, the method of Bogart cannot be modified such that directing a single call to a call queue takes nearly an hour without rendering it unsatisfactory for its intended purpose of optimizing call center performance. Therefore, the near-real time method of Bogart is technically incompatible with the computationally intensive scheduling method of Weigel.

There would be no reasonable expectation of success in combining the method of batch processing an entire shift of service orders of Weigel, with the call-by-call routing of Bogart. There would also be no reasonable expectation of success in combining the method of selecting and ordering stops of Weigel with the matching of a single agent to a single call method of Bogart. There would also be no reasonable expectation of success in combining the near real time computation of Bogart with the slow, intensive computation of Weigel. The combination is therefore improper and fails to establish a prima facie case of obviousness. Claim 1-12, 14, 16-26, 28-36, 38 and 39 are therefore allowable.

The Final Office Action states as its justification for combining Weigel and Bogart that the combination would "maximize the performance of an organization by taking the individual performance level of the employees into account." Applicants respectfully disagree. Applicants submit that for at least the reasons stated in the Response to Office Action submitted January 12, 2006 (the entirety of which is incorporated herein by reference) in response to the Non-Final Office Action and as supplemented herein, there is no suggestion or motivation to make the asserted combination, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

In addition to the reasons presented in the Response to Office Action submitted January 12, 2006, the asserted combination does not teach each element of the following claims for at least the following reasons:

Claim 2 recites “a geo-location interface configured to access a geo-location system, the geo-location system indicating a location of the technician.” Claim 31 includes a similar element. The Final Office Action states that Weigel at page 119, column 1, lines 31-35 discloses this feature as a seed point. *Final Office Action*, page 11, 1st paragraph. Applicants respectfully disagree. In fact, the seed point of Weigel is “the geographic centroid of the desired working area” of a technician. *Weigel*, p. 115, column 2, lines 17-18. That is, the seed point corresponds to the centroid of the region where the technician prefers to work and, thus, does not disclose or suggest a geo-location system indicating a location of the technician as recited in claim 2 or the similar element in claim 31.

Claim 16 recites a “global positioning location associated with a technician in a pool of technicians.” The Final Office Action does not address this element at all. The routes of Weigel are determined before a shift begins. *Weigel*, p.113, column 2, line 21 through p. 114, column 1, line 8; and p. 126, column 1, lines 5-8. Bogart deals with routing calls in a call center. *Bogart*, Abstract. Neither Weigel nor Bogart alone or in combination disclose or suggest a global positioning location associated with a technician, as recited in claim 16.

Claim 18 recites a “mobile technician interface configured to communicate with a mobile technician monitoring system.” Claim 38 includes a similar element. The Final Office Action does not address this element at all. Since Bogart deals with calls to a call center, and Weigel deals with routes arranged before a shift, neither Weigel nor Bogart disclose or suggest a mobile technician interface configured to communicate with a mobile technician monitoring system, as recited in claim 18 or the similar element in claim 38.

Claim 25 recites “an inventory provisioning interface configured to access a public switch telephone network inventory system.” The Final Office Action does not address this element at all. Neither Weigel nor Bogart discloses or suggests this element of claim 25.

Claim 29 recites “wherein that at least one web page is accessible by a competitive local exchange carrier.” The Final Office Action also fails to address this element. Neither Weigel nor Bogart discloses or suggests this element of claim 29.

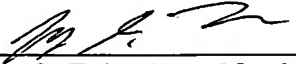
Since the combination of Weigel and Bogart does not disclose or suggest each element of the claims, the combination does not establish a prima facie case of obviousness.

CONCLUSION

In light of the arguments presented above, the rejections of claims 1-12, 14, 16-26, 28-36, 38 and 39 are improper, and the Applicants respectfully request withdrawal of the rejections. The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

6-27-2006
Date



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